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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 KRISTEN DALE,
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Plaintiff,

v.

NANCY BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No.: 16-CV-2618 W (RNB)

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION [DOC. 23];**

**(2) GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT [DOC. 16];**

**(3) DENYING DEFENDANT'S
CROSS-MOTION FOR SUMMARY
JUDGMENT [DOC. 19]; AND**

(4) REMANDING CASE

On October 20, 2016, Kristen Dale ("Plaintiff") filed this action seeking judicial review of the Social Security Commissioner's final decision denying her claim for disability insurance benefits and Supplemental Security Income. (*See Compl.* [Doc. 1].) The matter was referred to a United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1). (*October 24, 2016 Order* [Doc. 4].)

1 Thereafter, the parties filed cross-motions for summary judgment. (*Pl.’s Mot.* [Doc. 16];
2 *Def.’s Mot.* [Doc. 19].)

3 On April 5, 2018, United States Magistrate Judge Robert Block issued a Report
4 and Recommendation (“R&R”) recommending that the Court grant Plaintiff’s motion for
5 summary judgment, deny Defendant’s motion for summary judgment, and remand the
6 case for further proceedings. (*R&R* [Doc. 23] 8–9.) Judge Block ordered that any
7 objections to the R&R be filed within two weeks of service of the R&R—or April 19,
8 2018. (*See id.*) No objections were filed. There has been no request for additional time
9 to object.

10 A district court’s duties concerning a magistrate judge’s report and
11 recommendation and a respondent’s objections thereto are set forth in Federal Rule of
12 Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1). When no objections are filed, the
13 district court is not required to review the magistrate judge’s report and recommendation.
14 See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (reasoning that 28
15 U.S.C. § 636(b)(1)(C) “makes it clear that the district judge must review the magistrate
16 judge’s finding and recommendations de novo *if objection is made*, but not otherwise”);
17 Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (concluding that
18 where no objections were filed, the District Court had no obligation to review the
19 magistrate judge’s report). This rule of law is well-established within both the Ninth
20 Circuit and this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n.13 (9th Cir. 2005)
21 (“Of course, de novo review of a R & R is only required when an objection is made to the
22 R & R[.]”) (citing Reyna-Tapia, 328 F.3d at 1121); Nelson v. Giurbino, 395 F. Supp. 2d
23 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopting the R&R without review because neither
24 party filed objections despite having the opportunity to do so); see also Nichols v. Logan,
25 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

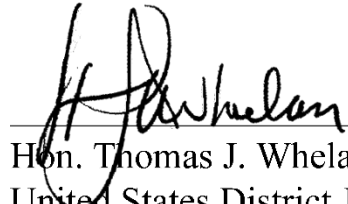
26 In light of the foregoing, the Court accepts Judge Block’s recommendation and
27 **ADOPTS** the R&R [Doc. 23] in its entirety.

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1 For the reasons stated in the R&R, which is incorporated herein by reference, the
2 Court **GRANTS** Plaintiff's motion for summary judgment [Doc. 16], **DENIES**
3 Defendant's motion for summary judgment [Doc. 19], and **REMANDS** the case to the
4 Social Security Administration for further proceedings consistent with the R&R. Upon
5 remand, the Clerk shall close the district court case file.

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7 **IT IS SO ORDERED.**

8 Dated: June 4, 2018

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11 Hon. Thomas J. Whelan
United States District Judge
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